
Public Utilities Commission of the State of California

Results of Public Agenda 3095

Meeting Held on Thursday, September 19, 2002 10:00 a.m.

San Francisco, California

Commissioners

Loretta M. Lynch, President (Present)

Geoffrey F. Brown (Present)

Henry M. Duque (Present)

Michael R. Peevey (Present)

Carl W. Wood (Present)

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Monday, September 30, 2002 (San Francisco)	Thursday, October 03, 2002 (San Francisco)
Thursday, October 17, 2002 (San Francisco) (Will Be Held)	Thursday, October 17, 2002 (San Francisco)
Tuesday, October 22, 2002 (San Francisco)	Thursday, October 24, 2002 (San Francisco)
Monday, November 04, 2002 (San Francisco)	Thursday, November 07, 2002 (San Francisco)
Monday, November 18, 2002 (San Francisco)	Thursday, November 21, 2002 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
-

Public Comment:

Re H-7:

Ben Menor, 3056 Knights Bridge Rd, San Jose, CA 95132

Julian Canete, 120 I Street, Ste 301, Sacramento, CA 95814

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

CA-1

Res TL-19012

970

Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

Outcome Approved

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

CA-2

Res ALJ-176-3095

971

Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

Outcome Approved

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-3
947****A02-05-021 - Bidwell Water Company, Inc. (Bidwell) and Dougall Family Trust, Craig Dougall Trustee.**

This decision grants an amended application for the sale of Bidwell to the Indian Valley Community Services District. This proceeding is closed.

(Comr Duque - ALJ Walker)

Outcome Held (10/3/02, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-4
968****A01-11-004 - San Diego Gas & Electric Company (SDG&E).**

For authority to make various electric rate design changes, close certain rates, and revise cost allocation among customer classes effective August 1, 2002. This decision adopts an all-party settlement agreement that makes minor changes to SDG&E's rate design for its small commercial, commercial and industrial, and agricultural customers. This proceeding is closed.

(Comr Brown - ALJ Galvin)

Outcome Signed

[D02-09-034](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-5 (Rev.)
969****A01-10-028 - San Gabriel Valley Water Company (San Gabriel).**

For authority to increase rates charged for water service in its Los Angeles County Division revenues by \$9,526,800 or 30.4% in 2002, \$7,276,100 or 17.8% in 2003, \$2,668,600 or 5.5% in 2004, and \$2,668,500 or 5.2% in 2005. This decision authorizes San Gabriel to increase revenues by \$3,435,700 (or 10.90%) for test year 2002, \$1,554,800 (or 4.44%) for test year 2003, \$1,552,500 (or 4.24%) for attrition year 2004, and \$1,552,500 (or 4.07%) for attrition year 2005. These revenue increases reflect an overall 9.4% rate of return for all years. This proceeding is closed.

(Comr Duque - ALJ Bushey)

09/18/2002 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (10/3/02, Consent Agenda. Further review/possible alternate)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-6
1003****A01-09-034 - Catalina Freight Line (CFL).**

For authority to establish a Zone of Rate Freedom (ZORF) for its vessel common carrier service for the transportation of freight between Los Angeles Harbor and Catalina Island. This decision denies the application of CFL to establish a ZORF. This proceeding is closed.

(Exam Clark)

Outcome Held (10/3/02, Consent Agenda. Further consideration/possible alternate)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-7
1006****A01-05-055 - Rideshare Port Management, L.L.C. dba Prime Time Shuttle-Los Angeles (RPM), and AMRAT, Inc. dba Prime Time Shuttle (AMRAT).**

This decision grants the application of RPM and AMRAT to expand their present authority in both San Bernardino and Riverside Counties. MotorSTATION CORP.'s protest is denied. This proceeding is closed.

(Comr Duque - ALJ Evans)

Outcome Signed

D02-09-035

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-8
1007****A99-05-044 - Southern California Gas Company (SoCalGas).**

In this application, SoCalGas asked to change the rules governing independent contractors' installation of automatic earthquake shut-off valves (EQVs). By D01-11-068 in A00-07-040, the Commission granted SoCalGas authority to discontinue new EQV installations. As a result, this application is moot, and this decision closes the proceeding.

(Comr Wood - ALJ O'Donnell)

Outcome Held (10/3/02, Consent Agenda. Further consideration)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-9
1008****A02-06-033 - Del Oro Water Company, Inc. (Applicant).**

This decision grants the Applicant's request to secure a loan in the amount of \$250,000 but denies without prejudice authority to apply monthly surcharges to repay the principal and interest of the loan. This proceeding is closed.

(Exam Jackson)

(Agenda 3094, Item CA-17 9/5/2002 (Duque))

Outcome Signed

[D02-09-036](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-10
1010****A01-09-015 - Pacific Gas and Electric Company (PG&E).**

For authority to change distribution level standby rates as required by D01-07-027. A01-09-016, A01-09-017 - Related matters. This decision dismisses these applications without prejudice and directs San Diego Gas & Electric Company, Southern California Edison Company, and PG&E to submit their standby rate design proposals to comply with D01-07-027 in their next General Rate Case, Rate Design Phase application. These proceedings are closed.

(Comr Lynch - ALJ Cooke)

Outcome Signed

[D02-09-037](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-11
1050****A01-11-043 - Southern California Edison Company (SCE).**

This decision grants SCE authority under Pub. Util. Code § 851 to enter into two master agreements and associated standard agreements to lease excess space at communications facilities and antenna equipment locations to AT&T Wireless Services of California, LLC and affiliated companies (AT&T Wireless). The leased space would be used by AT&T Wireless to expand its wireless communications network. This proceeding is closed.

(Comr Brown - ALJ Walker)

Outcome Held (11/7/02, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-12
1051****A02-03-046 - Apple Valley Ranchos Water Company.**

For authority to increase rates: In 2003 of \$2,775,000 or 27.1% above revenues generated by present rates, in 2004 of \$497,839 or 3.8% above the revenues generated by the rates proposed for 2003, in 2005 of \$507,422 or 3.7% above the 2004 revenue requirements. Apple Valley Ranchos Water Company's test year 2003 results of operation and rates that will be adopted in this proceeding shall be effective January 1, 2003.

(Comr Peevey - ALJ Galvin)

Outcome Held (10/3/02, Consent Agenda. Further analysis.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-13
1055****A02-04-033 - Pacific Gas and Electric Company (PG&E).**

This decision authorizes PG&E to grant Delta Energy (Delta) an aerial easement to permit interconnection of Delta's 230 kV electric transmission line to PG&E's Pittsburg Substation. This proceeding is closed.

(Comr Wood - ALJ Prestidge)

Outcome Signed

[D02-09-038](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-14
1063****Res W-4349 - Mar Vista Water Company, Inc. (MVWC).**

This resolution authorizes MVWC a surcharge to recover an undercollection in its purchased power balancing account producing an increase in annual revenue of \$3,441 or 5.1%.

(Advice Letter 30 filed July 22, 2002)

Outcome Approved

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-15
1067 A01-12-025 - Southern California Regional Rail Authority (SCRRA) and City of Montclair (City).**

This decision grants the request of SCRRA to construct a permanent pedestrian underpass at separated grades and the City's request to construct a temporary at-grade pedestrian crossing at the Montclair Transcenter located on SCRRA's San Gabriel Subdivision in the City, San Bernardino County. This proceeding is closed.

(Exam Clark)

Outcome Signed

[D02-09-039](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-16
1069 A00-06-023 - Southern California Gas Company (SoCalGas)**

For an order regarding Year Six (1999-2000) under SoCalGas' experimental gas cost incentive mechanism and related gas supply matters. This decision grants The Utility Reform Network an award of \$28,636.20 in compensation for substantial contributions to D02-06-023, issued in Phase 2 of the Gas Cost Incentive Mechanism proceeding for Southern California Gas Company.

(Comr Lynch - ALJ Walker)

Outcome Signed

[D02-09-040](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-17
1070 A02-05-064 - Hussen Alemu Desta (Applicant) dba Delta Airport Shuttle.**

This decision authorizes Applicant to operate an on-call passenger stage corporation between San Francisco, Contra Costa, Santa Clara, Solano, Marin, and San Mateo Counties, on the the hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand and to establish a zone of rate freedom (ZORF). This proceeding is closed.

(Exam Clark)

Outcome Signed

[D02-09-041](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-18
1076****A02-06-017 - 1-800-RECONEX, INC. (Applicant).**

This decision grants the Applicant's request for a certificate of public convenience and necessity to provide limited facilities-based local exchange telecommunications services. This proceeding is closed.
(Comr Peevey - ALJ O'Donnell)

Outcome Signed

[D02-09-042](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-19
1077****A02-05-056 - Cypress Communications Operating Company, Inc.**

This decision grants the Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.
(Comr Peevey - ALJ O'Donnell)

Outcome Signed

[D02-09-043](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**CA-20
1078****A02-06-049 - Wholesale Airtime, Inc.**

This decision grants the Applicant a certificate of public convenience and necessity to provide limited facilities-based local exchange and interexchange telecommunications services. This proceeding is closed.

(Comr Peevey - ALJ O'Donnell)

Outcome Signed

[D02-09-044](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

CA-21
(Rev.)
1086

A00-11-038 - Southern California Edison Company.

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. Although an updated revenue requirement and associated charges for 2003 are expected to be in place by January 1, 2003, this decision provides clarification that the current charges associated with the California Department of Water Resources' (DWR) revenue requirement, which was adopted in D02-02-052, will remain in effect until further order of the Commission. These current charges will remain in place until updated DWR charges take effect for customers in each of the utilities' service territories that covers the DWR revenue requirement for the forecast period from January 1, 2003 through December 31, 2003.

(Comr Brown, Comr Lynch - ALJ Allen)

09/11/2002 - This revision was not shown on the Agenda mailed to the public.

Outcome Signed

[D02-09-045](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

CA-22
(Rev.)
1075

C01-06-009 - B.H. Properties, LLC, (Complainant) vs. Suburban Water Systems (Suburban).

This decision adopts the Presiding Officer's Decision, which denies the complaint since Suburban is correctly applying its tariffs but directs Suburban to develop a new "FMCT" meter tariff in its pending general rate case proceeding, A02-05-033. This proceeding is closed.

(Comr Brown - ALJ Veith)

09/12/2002 - This item appeared as (5) on the agenda distributed to the public.

Outcome Signed

[D02-09-046](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Regular Agenda**Utility and Transportation Orders*****Orders Held Over*****H-1 A00-12-026 - Pacific Gas and Electric Company (PG&E).****38**

For approval of agreements allowing access to electric distribution facilities for the installation and maintenance of telecommunications equipment. This decision grants PG&E authority to convert nine of the 13 license agreements into lease agreements. The remaining four agreements will be addressed in a future decision after further review of the agreements' compliance with Section 851 and the California Environmental Quality Act.

(Comr Lynch - ALJ Kenney)

(Agenda 3080, Item CA-9 1/23/2002 (Oshiro); Agenda 3087, Item CA-9 5/2/2002;

Agenda 3088, Item CA-28 5/16/2002; Agenda 3090, Item H-1 6/27/2002 (Duque);

Agenda 3091, Item H-2 7/17/2002; Agenda 3093, Item H-1 8/22/2002 (Duque))

Outcome Held (10/3/02. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

H-1a ALTERNATE TO ITEM 38**854**

For approval of agreements allowing access to electric distribution facilities for the installation and maintenance of telecommunications equipment. The alternate decision concludes that the lease agreements are, in effect, licenses and therefore Public Utilities Code Section 851 is not applicable.

(Comr Duque)

(Agenda 3091, Item H-2a 7/17/2002; Agenda 3093, Item H-1a 8/22/2002 (Duque))

Outcome Held (10/3/02. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-2
623****R93-04-003 - California Public Utilities Commission.**

Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for Network Architecture Development of Dominant Carrier Networks. I93-04-002 - Related matters. This decision adopts permanent Unbundled Network Element rates for the High Frequency Portion of the Loop (HFPL) for both Pacific Bell Telephone Company (Pacific) and Verizon California Inc. (Verizon). The decision finds that establishing a separate rate for the HFPL allows Pacific and Verizon to over-recover their loop costs, since they currently recover the full cost of the loop through rates for the unbundled loop. Pacific and Verizon are required to return HFPL revenues to ratepayers through a surcredit on residential and business basic exchange customers bills.

(Comr Wood - ALJ Jones)

(Agenda 3089, Item 3 6/6/2002; Agenda 3091, Item H-6 7/17/2002; Agenda 3092, Item H-2 8/8/2002 (Wood); Agenda 3093, Item H-4 8/22/2002 (Peevey))

Outcome Held (10/24/02. To incorporate comments.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-3
709****A00-10-045 - San Diego Gas & Electric Company (SDG&E).**

For an order implementing Assembly Bill 265. A01-01-044 - Related matters. This order addresses SDG&E's motions for reconsideration by the full Commission of the Assigned Commissioner's Ruling directing (1) Service of Documents and (2) Filing of Notice of Ex Parte Communication, and for issuance of an immediate stay of said ruling.

(Comr Wood - ALJ Wetzell)

(Agenda 3089, Item 8 6/6/2002; Agenda 3091, Item H-10 7/17/2002; Agenda 3093, Item H-8 8/22/2002 (Peevey))

Outcome Held (10/24/02. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-4
729****A98-07-003 - Pacific Gas and Electric Company (PG&E).**

For verification, consolidation and approval of costs and revenues in the Transition Revenue Account. In D99-06-058 the Commission ordered an audit of the Power Exchange energy credits (PX credits) of Southern California Edison Company, PG&E, and San Diego Gas & Electric Company. An audit was deemed necessary to insure that the PX credit on a direct access customer's bill was accurate. No termination date was set, but we provided for its eventual termination, should circumstances change. This decision grants the three utilities' petition to terminate the audit at the end of 2000. The PX credit ended when the PX suspended operations in January 2001. There is no purpose in continuing the audit. This proceeding is closed.

(Comr Wood - ALJ Barnett)

(Agenda 3091, Item 3 7/17/2002; Agenda 3093, Item H-9 8/22/2002 (Duque); Agenda 3094, Item H-3 9/5/2002)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Duque, Peevey)

Abstain: (none)

Absent: (none)

**H-5
869****A02-01-041 - Pacific Gas and Electric Company (PG&E).**

This decision denies PG&E's application for amendment to the Power Purchase Agreement between PG&E and Gaylord Container Corporation. This proceeding is closed.

(Comr Wood - ALJ DeBerry)

(Agenda 3093, Item CA-5 8/22/2002 (Peevey))

Outcome Signed

[D02-09-047](#)

Yes: (Brown, Lynch, Wood)

No: (Duque, Peevey)

Abstain: (none)

Absent: (none)

**H-5a
1071****ALTERNATE TO ITEM 869**

This alternate decision approves Pacific Gas and Electric Company's (PG&E) application for approval of an amendment to the Purchase Power Agreement between PG&E and Gaylord Container Corporation.

(Comr Peevey)

Outcome Defeated

Yes: (Duque, Peevey)

No: (Brown, Lynch, Wood)

Abstain: (none)

Absent: (none)

**H-6
890**

A96-10-038 - Pacific Enterprises, Enova Corporation, Mineral Energy Company, B Mineral Energy Sub and G Mineral Energy Sub.

For approval of a Plan of Merger of Pacific Enterprises and Enova Corporation with and into B Energy Sub ("Newco Pacific Sub") and G Energy Sub ("Newco Enova Sub"), the wholly-owned subsidiaries of a newly created holding company, Mineral Energy Company. In D98-03-073, the Commission approved the merger of San Diego Gas & Electric Company and Southern California Gas Company, subject to certain conditions. One of those conditions was that an independent firm should be hired to audit and ensure compliance with applicable safeguards. Larkin & Associates performed the Audit and submitted its report. The report finds that the merged companies complied with the applicable Safeguards but that some changes in the merger conditions are needed. This decision approves the Larkin report and most of its recommendations. Some recommendations are not approved. This proceeding is closed.

(Comr Duque - ALJ Barnett)

(Agenda 3093, Item 1 8/22/2002 (Peevey); Agenda 3094, Item H-5 9/5/2002 (Duque))

Outcome Signed

[D02-09-048](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**H-7
910**

R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.

I93-04-002, R95-04-043, I95-04-044 - Related matters. This decision grants, conditioned on Pacific Bell Telephone Company's (Pacific) compliance with the directives set forth in this decision, Pacific's renewed motion for an order that it has satisfied a substantial majority of the 14-point checklist in Section 271 of the Telecommunications Act of 1996. Concurrently, this decision denies Pacific's motion for an order that it has satisfied the requirements of California Public Utilities Code Section 709.2.

(Comr Brown - ALJ Reed)

(Agenda 3093, Item 3 8/22/2002 (Brown))

Outcome Signed as Modified (Signed as modified by alternate pages (Item 1064, H-7a). Pres. Lynch will file a dissent. Comr. Duque will file a partial dissent. Comr. Peevey will file a concurrence.)

[D02-09-050](#)

Yes: (Brown, Duque, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

H-7a (Rev.) ALTERNATE TO ITEM 910
1064

I93-04-002, R95-04-043, I95-04-044 - Related matters. The alternate pages of Commissioner Brown: 1) Allows Pacific Bell Telephone Company (Pacific) to joint market Pacific Bell Long Distance (PBLD). 2) Requires Pacific to track the time Pacific Bell markets affiliate services. 3) Specifies language Pacific representatives must use to disclose equal access options. 4) Clarifies that the Tariff Rule 12 marketing prohibition applies to new-connect calls. 5) Requires staff to initiate an affiliate marketing audit to be paid for by PBLD. 6) Requires Pacific to maintain Preferred Interexchange Carrier (PIC)/InterLATA and IntraLATA PIC distinction when requesting customer authorization for long-distance/local toll. 7) Requires staff preparation of the "third-party-administrator" feasibility Investigation to include whether the PIC/LPIC distinction should continue.

(Comr Brown)

09/12/2002 - This revision was not shown on the Agenda mailed to the public.

Outcome Approved (Alternate pages to Item 910 (H-7).)

Yes: (Brown, Lynch, Wood)

No: (Duque, Peevey)

Abstain: (none)

Absent: (none)

H-8 R_____ - Order Instituting Rulemaking to implement the provisions of Public Utilities
936 Code § 761.3, enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative
Session.

This proceeding is opened to implement Pub. Util. Code §761.3, which confirms the authority of the Commission to address electric generation facility issues. The purpose of this proceeding is to develop rules to (1) enforce California Independent System Operator outage scheduling protocols and (2) implement and enforce the generator operation and maintenance standards that will be adopted by the California Electric Generation Facilities Standards Committee, established by the statute.

(Comr Wood)

(Agenda 3092, Item 6 8/8/2002 (Wood); Agenda 3093, Item H-14 8/22/2002 (Wood))

Outcome Held (10/24/02)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-9
954 R98-07-037 - Order Instituting Rulemaking on the Commission's proposed policies and programs governing energy efficiency, low-income assistance, renewable energy and research development and demonstration.**

This decision addresses issues regarding the eligibility of renewable-fuel combustion turbines (e.g., micro-turbines) for self-generation program incentives under this program. The Commission also addresses Capstone Turbine Corporation's Petition For Modification of D01-03-073, filed on March 5, 2002.

(Comr Lynch - ALJ Gottstein)

(Agenda 3094, Item 2 9/5/2002)

Outcome Signed

[D02-09-051](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**H-10
956 A01-09-045 - Lodi Gas Storage, L.L.C. (LGS), Western Hub Properties L.L.C. (Western Hub), and WHP Acquisition Company, LLC (WHP).**

This decision approves, subject to conditions: the unopposed request for the sale of Western Hub to WHP and the resulting indirect change of control of LGS and its Lodi gas storage facility; authority to enter into a secured, long-term bank financing agreement; and contracts for the management of continuing construction at the Lodi facility and for management of the day-to-day operations of LGS. The change of control will not affect the rates, terms or conditions under which LGS is to operate pursuant to previous Commission decisions and qualifies for an exemption from the California Environmental Quality Act. The conditions of approval require the disclosure of specific contracts and other documents to the Director of the Commission's Energy Division. This proceeding is closed.

(Comr Lynch - ALJ Veith)

(Agenda 3094, Item 3 9/5/2002 (Duque))

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

H-10a
964**ALTERNATE TO ITEM 956**

The alternate decision differs from the draft decision in two substantial ways: (1) it imposes the 1997 Affiliate Transaction Rules and (2) denies Joint Applicants' requested use of an affiliate for day-to-day facility management.

(Comr Lynch)

(Agenda 3094, Item 3a 9/5/2002 (Duque))

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

H-10b
989**ALTERNATE TO ITEM 956**

This alternate approves the unopposed request of Joint Applicants Lodi Gas Storage (LGS), LLC, Western Hub Properties, LLC, and WHP Acquisition Company, LLC, for a change in the ultimate ownership of LGS and its Lodi gas storage facility and for authority to enter into a secured, long-term bank financing agreement. The approval of this application is subject to certain conditions which differ in this alternate from those in the draft decision.

(Comr Peevey)

(Agenda 3094, Item 3b 9/5/2002 (Duque))

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

H-11 (Rev.) 957 R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell and Verizon California Incorporated (Verizon).

I01-09-002 - Related matters. This interim decision addresses the Office of Ratepayer Advocate's (ORA) audit of Verizon. The decision adopts the parties' settlement of most audit issues, with certain conditions. With respect to the main issue that was not settled, the decision (1) finds that the earnings of Verizon's telephone directory affiliate that exceed a rate of return (ROR) of 11.5% should be reflected in the regulated earnings of Verizon, and (2) expands the scope of Phase 3 of this proceeding to consider what ROR should be used in the future to determine the existence and amount of any excessive earnings of Verizon's telephone directory affiliate. The decision declines to adopt ORA's recommendation to reduce Verizon's rates by \$104 million in response to misallocated costs and revenues that were discovered by ORA's audit. Instead, the decision orders a separate phase of this proceeding to determine whether Verizon has violated any rules of the Commission and whether penalties are warranted. Finally, the decision declines to adopt ORA's proposal to make Verizon's allegedly excessive earnings subject to refund, and expands the scope of Phase 3 to include the issue of whether Verizon's earnings are excessive.

(Comr Lynch - ALJ Kenney)

(Agenda 3094, Item 4 9/5/2002 (Peevey))

09/17/2002 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (10/3/02. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

H-12 996 A02-05-006 - National Comtel Network, Inc. (NCN) and Jeff L. Foss (Foss).

This decision grants the joint application of NCN and Foss for approval of the transfer of control of NCN to Foss. This proceeding is closed.

(Comr Peevey - ALJ O'Donnell)

(Agenda 3094, Item CA-9 9/5/2002 (Lynch))

Outcome Held (10/24/02. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Orders**1 A01-02-024 - AT&T Communications of California, Inc. and WorldCom, Inc.****966**

For the Commission to reexamine the recurring costs and prices of unbundled switching in its first annual review of unbundled network element costs pursuant to Ordering Paragraph 11 of D99-11-050. A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision applies the interim switching discounts recently adopted in D02-05-042 to all of the unbundled network element ports of Pacific Bell Telephone Company listed in D99-11-050. (Comr Wood - ALJ Duda)

Outcome Signed[D02-09-052](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

2 I00-11-002 - Order Instituting Investigation into the adequacy of the Southern California
967 Gas Company's (SoCalGas) and San Diego Gas & Electric Company's (SDG&E) gas
transmission systems to serve the present and future gas requirements of SDG&E's core
and noncore customers.

This decision adopts new rules and procedures for SDG&E and SoCalGas to prevent future gas curtailments. This proceeding is closed.

(Comr Wood - ALJ Brown)

Outcome Held (10/3/02)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**3
1009**

I00-11-052 - Investigation on the Commission's own motion into the operations, practices, and conduct of Qwest Communications Corporation (Qwest), and its wholly owned subsidiary, LCI International Telecommunications Corporation, dba Qwest Communications Services (LCIT), to determine whether Qwest and LCIT have violated the laws, rules and regulations governing the manner in which California consumers are switched from one long distance carrier to another and billed for long distance telephone services.

This decision finds that Qwest and its wholly-owned subsidiary, LCIT violated Public Utilities Code § 2889.5 and § 2890, as well as other statutes, in the course of their marketing activities, and that sanctions are warranted for these violations. Primarily in 1999 and 2000, Qwest failed to adequately supervise its sales agents so that the agents switched thousands of customers' long distance telephone service without their permission in violation of Section 2889.5. In some cases, the third-party verification tapes or letters of authorization confirming the switches were falsified, and Qwest failed to retain third-party verification tapes and make them available to the customer and the Commission. Qwest also violated § 2890 by placing unauthorized charges on thousands of customers' telephone bills. This decision orders a \$ 38,245,500 fine, reparations, and various sanctions to ensure future compliance with § 2889.5 and § 2890. This proceeding is closed.

(Comr Wood - ALJ Econome)

Outcome Held (10/3/02. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**3a
1087**

ALTERNATE TO ITEM 1009

COMMISSIONER WOOD'S ORDER RE ITEM 1009. This order finds that Qwest and its wholly-owned subsidiary, LCIT violated Public Utilities Code Section 2889.5 and Section 2890, as well as other statutes, in the course of their marketing activities, and that sanctions are warranted for these violations. This decision orders a \$20,340,500 fine, reparations, and various sanctions to ensure future compliance with Section 2889.5 and Section 2890. This proceeding is closed.

Outcome Held (10/3/02. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

4
1029

R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.

This decision allocates the existing California Department of Water Resources' contracts among the utilities and addresses related contract allocation issues.

(Comr Lynch - ALJ Gottstein)

Outcome Signed (Pres. Lynch will file a dissent.)

[D02-09-053](#)

Yes: (Brown, Duque, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

6
1081

A01-02-024 - AT&T Communications of California, Inc. and WorldCom, Inc.

For the Commission to reexamine the recurring costs and prices of unbundled switching in its First Annual Review of Unbundled Network Element Cost pursuant to Ordering Paragraph 11 of D99-11-050. A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision addresses whether Pacific Bell Telephone Company's shared and common cost mark-up, which is a component of its unbundled network element prices, should be adjusted in response to a remand order of the U.S. District Court in AT&T Communications of California, Inc. et al., v. Pacific Bell Telephone Company, et al. (N.D. Cal., August 6, 2002.).

(Comr Wood - ALJ Duda)

Outcome Signed (Comr. Duque will file a partial dissent. Comr. Peevey will file a partial dissent.)

[D02-09-049](#)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Utilities Resolutions and Written Reports**Energy Matters****E-1 Res E-3781 - San Diego Gas & Electric (SDG&E).**

794 This resolution denies without prejudice SDG&E's proposal to return \$168 million overcollected in the Transition Cost Balancing Account (TCBA) as of March 31, 2002 to AB X1 43 customers.

(Advice Letter 1405-E filed May 10, 2002)

(Agenda 3091, Item E-1 7/17/2002; Agenda 3092, Item E-1 8/8/2002 (Peevey); Agenda 3093, Item E-1 8/22/2002 (Peevey))

Outcome Held (10/24/02. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

E-1a ALTERNATE TO ITEM 794

842 Urgent request to return \$168 million overcollected in the transition cost balancing account to San Diego Gas & Electric Company customers. Approximately \$52 million of the overcollection will be credited towards the Assembly Bill 265 undercollection while the remainder of the balance will be returned to large customers.

(Advice Letter 1405-E filed on May 10, 2002)

(Comr Peevey)

(Agenda 3091, Item E-1a 7/17/2002; Agenda 3092, Item E-1a 8/8/2002; Agenda 3093, Item E-1a 8/22/2002 (Peevey))

Outcome Held (10/24/02. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

E-2 Res E-3697 - Southern California Edison Company (Edison).

904 Edison requests authorization to continue offering its Telephone Solicitation Service for Newspapers and to establish a new non-tariffed product and service category entitled Newspaper Solicitation Service. In addition, Edison requests that the Newspaper Solicitation Service be considered "active" for purposes of its gross revenue sharing mechanism. Lastly, Edison requests a limited waiver of Rule IV.A, Customer Consent, of the Affiliate Transaction Rules. This resolution approves Edison's requests with modifications. (Advice Letter 1436-E filed February 22, 2000).

(Agenda 3093, Item E-3 8/22/2002 (Wood); Agenda 3094, Item E-1 9/5/2002 (Wood))

Outcome Defeated

Yes: (none)

No: (Brown, Duque, Lynch, Peevey, Wood)

Abstain: (none)

Absent: (none)

E-3 Res E-3775 - Pacific Gas and Electric Company (PG&E).

1011 This resolution rejects PG&E's request for approval of meter data set up and access charges for customers who arrange for an interval meter installation on a voluntary basis. (Advice Letter (AL) 2197-E filed February 15, 2002, and AL 2197-E-A filed July 2, 2002).

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

E-4 Res G-3340 - Pacific Gas and Electric Company (PG&E).

1089 This Resolution denies without prejudice PG&E's request to shift funds from pre-FY2002 Energy Efficiency program accounts to fund FY2002 Low-Income Energy Efficiency (LIEE) programs, orders PG&E to continue funding its LIEE programs through FY2002 up to the limits of PG&E's weatherization contractors' current contracts, orders PG&E to establish a memorandum account to track costs for LIEE through the remainder of 2002, and approves the requested expedited review process and shortened protest period. (Advice Letter 2409-G/2280-E filed September 3, 2002.)

Outcome Approved as Modified (Modifications made to the Ordering Paragraph 4.)

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Commissioner's Reports**CR-1****Commissioners' Reports****972**

Miscellaneous Commissioners' reports.

Outcome Information Only (Pres. Lynch announced the appointment of Izetta Jackson as Director of Water Division. This decision was made in Executive Session on September 5, 2002.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

CR-2**Commissioner Brown and Commissioner Peevey Report****935**

Commission Policies and Guidelines pursuant to Public Utilities Code Section 305, including: Public Agenda, decision document notation, access to and distribution of documents and reports. (Agenda 3092, Item CR-2 8/8/2002 (Brown); Agenda 3093, Item CR-2 8/22/2002 (Lynch); Agenda 3094, Item CR-2 9/5/2002 (Duque))

Outcome Approved as Modified (Modifications to Item I adopted 4-0. Comr. Wood abstained. Modifications to Item 3 adopted 3-0. Pres. Lynch dissented. Comr. Wood abstained. Item 7, as modified, defeated 3-2. Comrs. Brown and Peevey voted yes. Item 9 adopted 3-0. Pres. Lynch dissented. Comr. Wood abstained. Item 10 adopted, as modified 3-0. Pres. Lynch dissented. Comr. Wood abstained.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Management Reports and Resolutions**M-1 Management Reports****973** Miscellaneous Management Reports.**Outcome Information Only**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

M-2 General Counsel's Report**1085** Possible Addendum/Changes to Summary of Material Terms for Department of Water Resources' bond transaction.**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Non-Federal Items

Orders Held Over

HEX-1

917

A00-10-012 - Conference with Legal Counsel - Application for Rehearing.

A01-06-011, A00-11-050, A00-11-040, A00-11-034, A00-11-033, A00-11-032, A00-11-029, A00-11-016, A00-11-015, A00-10-050, A00-10-039, A00-10-033, A00-10-020 - Related matters. Order disposing of applications for rehearing of D02-05-047 filed by Citizens Against the Blue Line At-Grade and Mt. Washington Association. D02-05-047 approved applications of the Los Angeles to Pasadena Metro Blue Line Construction Authority to construct at-grade crossings for the proposed light rail service between the Union Station in Los Angeles and Sierra Madre Boulevard in Pasadena.

(Agenda 3092, Item EX-8 8/8/2002; Agenda 3093, Item HEX-6 8/22/2002 (Wood); Agenda 3094, Item HEX-3 9/5/2002 (Lynch))

Outcome Held (10/3/02. Further consideration)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

HEX-2

929

R97-04-011 - Conference with Legal Counsel - Application for Rehearing.

I97-04-012 - Related matters. Disposition of Application for Rehearing of Decision D02-02-046 filed by Pacific Gas & Electric Company (PG&E). D02-02-046 revised the disclaimer requirement set forth in Section V.F.1 of the Affiliate Transaction Rules and considered the implications of this revision on the penalty assessed against PG&E in D98-11-026 and D99-03-025, resulting in a reduced penalty for PG&E's violation of the legibility requirement of Affiliate Transaction Rule Section V.F.1.

(Agenda 3092, Item EX-9 8/8/2002; Agenda 3093, Item HEX-7 8/22/2002)

Outcome Signed

D02-09-054

Yes: (Brown, Duque, Lynch, Peevey)

No: (none)

Abstain: (Wood)

Absent: (none)

Orders**EX-5
1079****A99-10-027 - Conference with Legal Counsel - Applications for Rehearing.**

Disposition of the Application for Rehearing filed by Arrowhead Manor Water Company of D02-07-009, which directs the General Counsel to petition Superior Court to appoint a receiver for the water system, authorizes a general rate increase, and reinstates a loan surcharge.

Outcome Signed

D02-09-055

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**EX-6
1080****R97-10-016 and I97-10-017 - Conference with Legal Counsel - Applications for Rehearing.**

Disposition of Application for Rehearing of D02-03-023 filed by WorldCom, Inc. on behalf of itself and AT&T Communications of California, New Edge Networks, Inc., PacWest Telecomm, Inc., and XO California, Inc., which adopted an incentive payments plan for Pacific.

Outcome Signed

D02-09-056

Yes: (Brown, Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)